

C/m

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ELIZABETH TRIBBEY,

Plaintiff,

-against-

DCJ CATERING CORP.,

Defendants.
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MEMORANDUM AND ORDER

CV 06-1670

(Wexler, J.)

APPEARANCES:

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WEXLER, District Judge

This is a personal injury case in which Plaintiff alleges injury following a fall down a stairway at Defendants' catering establishment. Defendant, arguing the absence of a dangerous condition or notice thereof, moves for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. In response, Plaintiff submits expert testimony regarding the dangerous nature of the stairs in question.

Upon consideration of the papers in support of and in opposition to the motion, this Court finds that genuine issues of material fact exist precluding the entry of summary judgment with respect to Plaintiff's claims. See Fed. R. Civ. P. 56(c) (a party seeking summary judgment must

demonstrate that "there is no genuine issue of any material fact and that the moving party is entitled to a judgment as a matter of law."); Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986); Donohue v. Windsor Locks Bd. of Fire Comm'rs, 834 F.2d 54, 57 (2d Cir. 1987). Accordingly, Defendant's motion for summary judgment is denied. The denial of the motion is without prejudice to renewal at the close of Plaintiff's case.

SO ORDERED.



LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
June 26, 2007